

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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IN RE HERLEY INDUSTRIES, INC.  
SECURITIES LITIGATION

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Civil Action No. 06-CV-2596

**MOTION IN LIMINE NO. 5: TO EXCLUDE EVIDENCE, ARGUMENT OR  
STATEMENTS RELATED TO THE EXISTENCE OF THE SHAREHOLDER  
DERIVATIVE SUIT AGAINST HERLEY AND ITS BOARD OF DIRECTORS**

Defendants Herley Industries, Inc. (“Herley”), Lee Blatt (“Blatt”), Myron Levy (“Levy”), Anello C. Garefino (“Garefino”), Thomas V. Gilboy (“Gilboy”), and John M. Kelley (“Kelley”), by and through their undersigned counsel, respectfully submit this Motion in Limine No. 5: To Exclude Evidence, Argument, or Statements Related to the existence of the Shareholder Derivative Suit Against Herley and it Board of Directors. For the reasons set forth in the attached Memorandum of Law, which is incorporated by reference, Defendants respectfully request that an Order be entered in the proposed form attached.

April 7, 2010

Respectfully Submitted,

/s/ James T. Smith

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